

REMARKS

Presently, claims 25-32, 34-36, 53, 61-63 and 70 are pending in the application. Claims 1-24, 33, 50-52, 54-60 and 65-69 have been canceled. New independent claim 70 has been added to more particularly point out the present invention. Support for the features of new independent claim 70 may be found, for example, in independent claims 22 and 50 (now canceled) and at page 17, line 22 – page 19, line 4 of the specification. Claims 25-29, 34, 53 and 61-63 have been amended to depend from new independent claim 70. Accordingly, no new matter has been added to the application by the foregoing amendments.

Prior Art Rejections – § 103(a)

The Examiner has rejected claims 1-4, 9-21 and 58-60 under 35 U.S.C. §103(a) as being unpatentable over Applicant's admitted prior art of an advertisement being used in an EPG ("Applicant's Prior Art") in view of U.S. Patent Application Publication No. 2003/0145323 to Hendricks *et al.* ("Hendricks") and further in view of U.S. Patent Application Publication No. 21003/0020744 to Ellis *et al.* ("Ellis").

Claims 1-4, 9-21 and 58-60 have been canceled. Accordingly, the Examiner's §103(a) rejection over Applicant's Prior Art in view of Hendricks and Ellis is moot. However, to the extent that the present rejection is applied to any of the pending claims, Applicant respectfully traverses this rejection.

Based on the Examiner's arguments at page 2 of the present Office Action, the Examiner's 'Response to Arguments' at page 2 of the previous Office Action dated January 26, 2005, the Examiner's arguments at page 5 of the previous Office Action dated January 26, 2005, and the Examiner's arguments at page 2 of the Office Action dated May 7, 2004, it appears that the Examiner considers Applicant's Prior Art to be that the use of EPGs having inserted advertisements is well known in the art, as described at page 2, lines 22-24 of the specification. The Examiner does not rely on any additional prior art taught by Applicant in making this rejection. The Examiner contends that Hendricks teaches a system for presenting targeted advertisements to viewers based on

viewer characterization and attempts to deliver advertisements that might best suit viewers with common interests. The Examiner further contends that Ellis teaches allowing subscriber to access their profiles to update user information. The Examiner concludes that it would have been obvious to one of ordinary skill in the art to combine the teachings of Hendricks and Ellis with Applicant's Prior Art to result in Applicant's claimed invention. Applicant respectfully traverses this rejection.

Hendricks teaches a system for providing television programming and targeted advertisements to consumer's homes. In Hendricks, information is sent from a program controller to local storage and/or real-time display in a consumer's terminal. The stored information may include control information, programming and/or advertisements. Additionally, Hendricks discloses that information related to users' preferences and/or viewing actions or habits may be gathered, observed, retrieved and analyzed, such that a particular consumer terminal may be assigned to a desired target category. The target category, based for example on demographic information about one or more individual viewers, is utilized to determine which advertisements to target at a consumer or group(s) of consumers. The consumer groups may be modified in view of new or changing target criteria. Hendricks teaches that there are several different methods of conveying the desired advertisements to the audience, including sending and storing the targeted advertisements at the user's terminal prior to display. When a designated program break occurs, the locally stored advertisement is retrieved and displayed.

Ellis teaches an interactive television guide ("EPG") system that transmits data for creation of the EPG to EPG equipment over a communications link. The EPG data includes programming data (e.g., identifier, times and channels) and local information (e.g., data and information particular to the local area for the EPG). The EPG system in Ellis creates an EPG that may run on a set top box, television or a digital storage device. In Ellis, the EPG may store user preferences that allows user to customize their particular EPG experience. Thus, the EPG may store one or more profiles corresponding to its users. The profiles reflect the preference levels for a particular user and may be edited by that user. Ellis further teaches that the EPG may use the viewing history and the user preferences to target the user with particular advertisements. Ellis' EPG may also make personalized viewing recommendations.

Independent claim 70 recites:

A method of delivering targeted advertisements in a customized electronic program guide (EPG), the method comprising:

- (a) characterizing one or more subscribers receiving an electronic program guide;
- (b) characterizing a plurality of advertisements to be transmitted to the subscribers;
- (c) creating at least one set of targeted advertisements by correlating the subscribers and the advertisements based on the subscriber characterizations and the advertisement characterizations;
- (d) creating at a subscriber node a plurality of customized EPGs based on the characterization of the one or more subscribers, wherein the subscribers have access to at least a portion of data used for the creation of the respective customized EPG, and wherein each customized EPG is associated with one of the at least one sets of targeted advertisements corresponding to the subscriber characterization on which that EPG is based;
- (e) downloading a first customized EPG to a subscriber interface, wherein the downloading can be actuated by the subscriber;
- (f) transmitting to the subscriber the ads in the at least one set associated with the first customized EPG;
- (g) detecting a change in the subscriber characterization;
- (h) downloading a second customized EPG to the subscriber interface in response to the detection of step (g); and
- (i) transmitting to the subscriber the ads in the at least one set associated with the second customized EPG. (emphasis added)

As discussed above, the Examiner only relies on Applicant's Prior Art for the teaching of an advertisement being used in an EPG. Accordingly, Applicant's Prior Art does not teach or suggest all of the features recited in new independent claim 70.

Hendricks does not teach or suggest EPGs generally, and thus does not teach or suggest creating a plurality of customized EPGs, such that the "subscribers have access to

at least a portion of the data used for the creation of the respective customized EPG.”

Although Hendricks teaches a system that gathers and/or observes user information, such as demographic information, to help create a viewer profile to group or categorize the viewer, Hendricks does not teach that the viewer is able to access “at least a portion of the data used for the creation of the respective customized EPG.” Stated differently, Hendricks’ profiling and subsequent grouping of viewers may be based on information that is *supplied* to the system by viewers (see paragraphs [0433-0434]). However, even though that profile or categorization may be subsequently updated, there is no teaching in Hendricks that the viewer has the ability to review, revise, verify or otherwise access the profile, categorization or any other viewer characterization created by Hendricks’ system. Hendricks does also not teach or suggest downloading a first customized EPG to a subscriber interface, detecting a change in the subscriber characterization and downloading a second customized EPG to the subscriber interface based on that detection, as recited in new independent claim 70. Accordingly, Hendricks does not teach or suggest all of the features of new independent claim 70.

Ellis also does not teach or suggest creating “a plurality of customized EPGs” associated with a set of “targeted advertisements corresponding to the subscriber characterization on which that EPG is based.” That is, Ellis does not teach or suggest creating a “set of targeted advertisements” that is associated with a particular EPG. Although Ellis teaches that a program guide may include targeted advertisements that are selected based on the user’s profile and/or display criteria, Ellis does not teach or suggest that a “set of targeted advertisements” is created in accordance with an associated EPG that is downloaded to a subscriber. Rather, Ellis merely teaches that targeted advertisements may be included with the program guide and displayed to the user (via the program guide). Ellis does not teach that the advertisements are created or transmitted to the user as a set, nor that such a set corresponds to a specific program guide. Ellis also does not teach or suggest “downloading a first customized EPG...wherein the downloading can be actuated by the subscriber.” In Ellis, the user can navigate within the program guide, but does not control its download to the EPG equipment. Furthermore, Ellis does not teach or suggest “detecting a change in the subscriber characterization,” and “downloading a second customized EPG to the subscriber interface

in response to the detection..." Ellis simply teaches that the user may update or change the profile and/or viewing preferences that affect the data displayed in the program guide, but not that a second EPG corresponding a detected change in subscriber characterization is downloaded. Accordingly, Ellis does not teach or suggest all of the features of new independent claim 70.

Not only do Applicant's Prior Art, Hendricks and Ellis fail to individually teach all of the features of new independent claim 70, but a combination of these references does not result in Applicant's claimed invention. That is, even if Applicant's Prior Art, Hendricks and Ellis are properly combinable, such a combination still lacks the teaching of "plurality of customized EPGs...wherein each customized EPG is associated with...targeted advertisements corresponding to the subscriber characterization on which that EPG is based...downloading a first customized EPG to a subscriber interface, wherein the downloading can be actuated by the subscriber;...detecting a change in the subscriber characterization;..." and "downloading a second customized EPG to the subscriber interface in response to the detection," as recited in independent claim 70. Accordingly, new independent claim 70 is believed to be allowable over the combination of Applicant's Prior Art, Hendricks and Ellis.

Dependent claims 25-32, 34-36, 53 and 61-63 are allowable at least by their dependency on independent claim 70. Reconsideration and withdrawal of the Examiner's §103(a) rejection of claims 1-4, 9-21 and 58-60 are respectfully requested.

The Examiner has rejected claims 5-8 and 22-57 as being unpatentable over Applicant's Prior Art in view of Hendricks and Ellis further in view of U.S. Patent Application Publication No. 2003/0208756 to Macrae *et al.* ("Macrae"). Applicant respectfully traverses this rejection.

As discussed above with respect to the Examiner's obviousness rejection over Applicant's Prior Art in view of Hendricks and Ellis, the combination of these references does not teach or suggest all of the features of new independent claim 70. Applicant respectfully submits that Macrae does not teach or suggest the deficiencies missing from this combination.

Macrae teaches improvements to electronic program guides (“EPGs”), including viewer interaction capabilities, opportunities for advertisers to reach viewers and creating of viewer profiles. Macrae’s system allows the viewer to interact with the EPG, including selecting programming (including advertisements) for viewing and/or recording. The user may also interact with the EPG by scrolling through the listings which are not displayed on the initial screen. The EPG in Macrae collects information about the viewer, either by obtaining the requested information directly from viewer input or by learning the desired information by recording the viewer’s “actions and circumstances surrounding those actions” with the EPG (see paragraph [0298] of Macrae). The information that the EPG records includes instructions provided to the EPG (e.g., a channel change) as well as the time that that change was requested and the programming switched to and from as a result of the change. The EPG also records the absence of user interaction. Macrae teaches that a “viewer profile analysis program” performs a “simple statistical analysis” of the collected data and, combined with the viewer’s profile information, develops “viewer characteristics” (see paragraphs [0305-0306] of Macrae). The profile analysis program also compares one viewer profile to other viewer profiles to further aid in displaying similar content to similar viewers. Macrae then uses the viewer characteristics to customize the EPG, so that the viewer is presented with programming and/or advertisements that are likely to be of interest, both in terms of content and order of display. Macrae also teaches that the EPG may display advertisements based on specific programming that the viewer is currently watching or that certain advertisements may be assigned to particular “classes” of programming.

Macrae does not teach or suggest creating “a plurality of customized EPGs,” each EPG associated with a set of “targeted advertisements corresponding to a subscriber characterization on which that EPG is based.” Although Macrae teaches that an EPG may include targeted advertisements that are selected based on the user’s profile and preferences, Macrae does not teach or suggest the creation of a “set of targeted advertisements” to correspond to each of the created EPGs based on the same characterization(s) as the associated EPG. Rather, in Macrae the targeted advertisements are created, transmitted and displayed (via the EPG) independent of whether an EPG corresponding to the same characterization was created or not. Stated differently, Macrae

does not teach that sets of targeted advertisements are created to correspond to each of the customized EPGs. Moreover, Macrae is silent with respect to the creation of multiple EPGs corresponding to different characterizations and correlating subscriber and advertisement characterizations. Furthermore, Macrae does not teach or suggest “detecting a change in the subscriber characterization,” and “downloading a second customized EPG to the subscriber interface in response to the detection...” Macrae teaches that the user may update or change the profile and/or viewing preferences that affect the display and content of the EPG, but Macrae does not teach or suggest that a second EPG corresponding a detected change in subscriber characterization is downloaded to the subscriber. Since Macrae is silent with respect to multiple set of targeted advertisements, Macrae does therefore not teach or suggest that a set of targeted ads corresponding to the second EPG is transmitted to the subscriber.

Macrae also does not teach or suggest that a subscriber has “access to at least a portion of the data used for the creation of the respective customized EPG.” In Macrae, the user has the ability to access program information and product information through the EPG. Some of these user interactions are used by Macrae to generate viewer preferences. However, although Macrae’s EPG customization system gathers user information, including by obtaining information directly from the viewer, to help create a viewer profile or viewer characteristics, Macrae does not teach that the viewer is able to access that profile or preference. That is, there is no teaching in Macrae that the viewer has the ability to interact with the preference or profile that Macrae’s profile analysis program creates. Furthermore, although the viewer’s information (and thus profile or preferences) may be subsequently updated to reflect new or different information about the viewer, there is still no teaching in Macrae that the viewer is able to interact with the profile. Accordingly, Macrae does not teach or suggest all of the features of new independent claim 70.

For the same reasons discussed above, independent claim 70 is believed to be allowable over the combination of Applicant’s Prior Art, Hendricks, Ellis and Macrae, since such a combination lacks the teaching of at least a “plurality of customized EPGs...wherein each customized EPG is associated with...targeted advertisements corresponding to the subscriber characterization on which that EPG is based;...detecting

a change in the subscriber characterization;..." and "downloading a second customized EPG to the subscriber interface in response to the detection," as recited in independent claim 70.

Claims 25-32, 34-36, 53 and 61-63 are allowable at least by their dependency on new independent claim 70. Claims 5-8, 22-24, 33, 37-52 and 54-56 have been canceled. Reconsideration and withdrawal of the Examiner's obviousness rejection of claims 5-8 and 22-57 are respectively requested.

Taking of Official Notice

The Examiner has taken Official Notice with respect to claims 10 and 11 that the use of databases that are internal or external to a system is well known (see pages 4-5 of the Office Action); with respect to claim 16 that weighted average and the sum of squares are well known statistical methods models used for estimating probability of a particular event (pages 5-6 of the Office Action); and with respect to claim 21 that a broadcaster charges an advertiser an amount proportional to the number of audience it reaches (pages 6-7 of the Office Action). However, Applicant disagrees that there are "facts outside of the record which are capable of instant and unquestionable demonstration as being 'well-known' in the art," as required by M.P.E.P. §2144.03, which would support an Examiner's finding of Official Notice.

To the extent that the Examiner's taking of Official Notice may be applied to any of the pending claims, Applicant respectfully traverses the Examiner's taking of Official Notice, and respectfully requests that the Examiner support the taking of Official Notice by producing a relevant reference(s) that shows/teaches the above-identified assertions, and that the Examiner identify a specific teaching in such reference(s) to support a combination with Applicant's Prior Art, Hendricks, Ellis and/or Macrae.

Conclusion

In view of the foregoing amendments and remarks, Applicant respectfully submits that the Examiner's rejections have been overcome, and that the application, including claims 25-32, 34-36, 53, 61-63 and 70, is in condition for allowance. Reconsideration and withdrawal of the Examiner's rejections and an early Notice of Allowance are respectfully requested.

Respectfully submitted,

Date: 9/19/05

By: Andrew W. Spicer
Andrew W. Spicer
Registration No. 57,420
Technology, Patents, & Licensing, Inc.
6206 Kellers Church Road
Pipersville, PA 18947
Telephone: 215-766-2100
Facsimile: 215-766-2920